

Internal Revenue Service
Tax-Exempt & Government Entities Division
Office of Exempt Organizations
Draft Form 990 Redesign – Schedule K
June 14, 2007

Rationale

The Service is aware of significant noncompliance with recordkeeping and record retention requirements relating to tax-exempt bonds issued by or for the benefit of section 501(c)(3) organizations. This has made it difficult for the Service to determine whether the bonds continue to remain qualified throughout their life. The Service also is concerned about the investment of proceeds that might circumvent existing arbitrage rebate requirements. As a result, the Service has created the Schedule K. Comments are requested on possible transition relief for the implementation of this schedule and whether other reporting should be developed (e.g., governmental bond issuances).

Overview

- Part I requests information about all of an organization's outstanding bond issues with an outstanding principal amount greater than \$100,000
- Part II requests information about the use and investment of bond proceeds
- Part III requests information about private use
- Part IV requests information about the compensation of third parties who provide services relating to bond issuances

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20XX Instructions for Schedule K

Who Must File

All organizations that enter any amount on Form 990, Part VI, line 21 or answer “yes” to any of questions 6a through 6d of Form 990, Part VII must complete and attach Schedule K to Form 990 for each outstanding bond issue with an outstanding principal amount in excess of \$100,000 on the last day of the tax year.

If the organization is not required to file Form 990, it is not required to file Schedule K.

Period Covered

The filing organization’s Schedule K covers the same period as the Form 990 with which it is filed.

Part I Bond Issues

In Part I, provide the requested information for each outstanding tax-exempt bond issue with a principal amount greater than \$100,000 on the last day of the tax year. Use one row for each issue, and use the Part I row designation for a particular issue (e.g., “A” or “B”) consistently throughout Parts I through IV of Schedule K. The information provided in columns (a) through (e) should be consistent with the corresponding information included on the Form 8038, Tax-Exempt Private Activity Bonds, information return filed upon the issuance of the obligations. Complete multiple Schedule Ks if necessary to account for each outstanding tax-exempt bond issue.

Columns (a) and (b): Provide the name and EIN of the issuer of the bonds. The issuer’s name is the name of the entity issuing the bonds (typically a state or local governmental entity).

Column (c): Enter the CUSIP (Committee on Uniform Securities Identification Procedures) number on the bond with the latest maturity. If the issue does not have a CUSIP number, enter “none.”

Column (d): Enter the issue date of the bonds. The issue date generally is the date on which the issuer receives the purchase price in exchange for delivery of the evidence of indebtedness (e.g. a bond). In no event is the issue date earlier than the first day on which interest begins to accrue on the bond for Federal income tax purposes. See Treasury Regulations section 1.150-1(b).

Column (e): Provide the date that the Form 8038 information return was filed with the Internal Revenue Service

Column (f): Describe the purpose of the bond issue, such as to construct a hospital or provide funds to refund a prior issue. If any of the bond proceeds were used to refund a prior issue, enter the date of issue of each of the refunded issues. If the issue has multiple purposes, state each purpose.

Column (g): Provide the date the project funded by this bond issue was placed in service for federal tax purposes.

Column (h): Answer yes if the organization was an “on behalf of issuer” within the meaning of Revenue Ruling 63-20 for this issue.

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Part II Proceeds

Complete for each issue listed in Part I.

Line 1: The issue price is generally determined under Treasury Regulations section 1.148-1(b). When issued for cash, the issue price is the price at which a substantial amount of the obligations are sold to the public. To determine the issue price of an obligation issued for property other than cash, see sections 1273 and 1274 and the related regulations. The issue price does not include interest from the date the bonds are dated to the date of issue.

Lines 2 through 8: Enter the amounts outstanding, or expended, or invested by the organization as of the end of the year. For issuance costs, report the amount of the proceeds that were used to pay the transaction costs of issuing the bonds paid from the proceeds of the bonds. Issuance costs is defined under Treasury Regulations section 1.150-1(b).

Lines 9 & 10: Check yes or no to indicate whether proceeds of the bond issue were used to current or advance refund a prior bond issue. A refunding issue means an issue of obligations the proceeds of which are used to pay principal, interest, or redemption price on another bond issue (a prior issue). A current refunding occurs when the refunding bonds are issued not more than 90 days before the last payment of principal or interest is made on the prior issue. An advance refunding occurs when the refunding bonds are issued more than 90 days after the last payment of principal or interest is made on the prior issue. See Treasury Regulations section 1.150-1(d).

Part III Private Use

Complete for each issue listed in Part I.

Line 1: Answer yes if the organization was at any time during the year a general partner in a partnership, a managing member of a limited liability company, or held more than a 50% profits or capital interest in a partnership or limited liability company, that owned property that was financed by tax-exempt bonds.

Lines 2 and 3: See Revenue Procedures 97-13 and 97-14 regarding management contracts, research agreements, and the determination of private use of facilities financed with tax-exempt bond proceeds that are subject to such arrangements

Lines 4 and 5b: For line 4, report the highest percentage during the year of the portion of the project financed by the tax-exempt issue that was subject to a management contract or research agreement. For line 5b, report the highest percentage of use during the year by any person other than a section 501(c)(3) organization or a state or local governmental entity other than any use reported in line 4. The reported percentages in lines 4 and 5b should be based on the allocation method used by the organization to determine the extent of private use of the project or facilities financed by the tax-exempt bond proceeds.

Part IV Compensation of third parties

Report in Part IV requested information pertaining to compensation paid by the organization to third parties during the year with respect to the issuance of any tax-exempt bond issue listed in Part I. The information with respect to a particular third party is to be provided with respect to all tax-exempt bond issues or potential financings for which the party was compensated during the year. For each third party that received compensation greater than \$10,000 with respect to tax-

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exempt bond issues or potential financings, provide the name of the third party, the third party's role in the issue (e.g., bond counsel, borrower's counsel, financial advisor, underwriter), and the amounts paid by the organization to the third party during the year with respect to the tax-exempt bond issues, both in total and from bond proceeds. Also check yes or no in the last column regarding whether the third party was selected through a formal selection process.